84-1764 (3)

Case No. _____

Office-Supreme Court, U.S.
FILED
JAN 3 1985
ALEXANDER L. STEVAS, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

CAFC No. 84-641

HUDBCA No. 79-421-C40

PAULINE WALBER, etc.

Appellant,

V.

THE UNITED STATES
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT
SAMUEL PIERCE, Secretary,

Appellee.

APPELLANT'S EXHIBITS

By: Pauline Walber D/B/A
Walber Construction Co.
Appellant,
3530 West Outer Drive
Detroit, Michigan 48221
Phone: 313-864-6076 or
313=537-7800

Dated: February 9, 1985

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25. Q. Did Brothers Inc. provide a Cost Price List entitled "PRICE LIST (a) AMENDMENT COSTING"?

A. I do not recall if that was the title used at any given time for the regular cost price list. There was only one type of cost price list regularly provided to HUD Contracting and it was for the purpose of providing a guide for amendments to contracts. (emphasis added)

26. Q. For what purpose is the cost price list entitled "COST HANDBOOK HUD UNIT COST LIST -- ENERGY ITEMS", provided by Brothers Inc., used by HUD?

A. I do not know.

19. Q. Why did you fail to inform Plaintiff that as calculated by Brothers Inc. she was entitled to 18% above cost, for overhead and profit, on amendments?

A. It was not the business of a HUD Contracting Officer to inform contractors that they were entitled to anyparticular percentage above cost for overhead and profit. It was rather the business of a contractor to convince the HUD Contracting Officer that the price sought for an amendment item was reasonable as covering its costs plus certain other negotiable monies. A contractor is not "entitled" to any set percentage above cost for overhead and profit. Many variables were used in determining amendment costs. Some of these were whether a tradesman would have to be specially called in or whether the amendment item would be done in conjunction with similar work already scheduled, what the overhead requirements of the contractor were (out of house or out of shop), what the time requiremencs were, as well as many other variables. (emphasis added).

UNITED STATES OF AMERICA
DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT
BOARD OF CONTRACT APPEALS
Washington, D. C.

Appeals of:	
WALBER CONSTRUCTION CO.	HUDBCA Nos.
Under Contract Nos.	
044-78-4548 (Asbury)	79-421-C40
044-79-5063 (Montrose)	80-445-C2
044-78-4598 (Oak Drive)	80-465-C5

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Joan Saloschin, Esquire
Office of General Counsel
Department of Housing and
Urban Development
Washington, D.C. 20410

MOTION FOR ADJOURNMENT

NOW COMES Appellant, Walber Construction Company, by and through her attorney, GLENN M. GREENFIELD, and moves this Honorable Court for an adjournment and further states as follows:

1. That this attorney was retained on or about April 14, 1982, by PAULINE WALBER on behalf of WALBER CONSTRUCTION COMPANY.

2. That the Hearing date in the above referenced matter is set for April 28, 1982.

3. That the time frames involved do not adequately afford counsel sufficient time to learn the factual basis of the litigation, adequately research the substantive law involved, and file the appropriate motions.

4. That the failure of the government to produce documents, as ordered by this Honorable Court, has made it difficult, if not impossible, to garner the necessary evidence within the alloted time.

5. That the Appellant will be extremely prejudiced by this Court's failure to grant an adjournment.

WHEREFORE, the Appellant prays that this Honorable Court will grant its requestfor an adjournment to enable counsel for the Appellant to properly prepare for the forthcoming trial.

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UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
717 Madison Place, N.W.
Washington, D.C. 20439

George E. Hutchinson,
Clerk

Telephone 633-6550
Area Code 202

October 31, 1983

Board of Contract Appeals
Dept. of HUD
451 7th Street, S.W.
Wash., DC 20410

Title: Walber Construction Co. vs. the U.S.
Case Number: HUDBCA No. 79-421-C40

Dear Sir:

This is to acknowledge receipt on October 31, 1983 of a petition for review, copy attached, of a decision of your agency.

Upon receipt of the certified record list described in FRAP 17(b), the case will be docketed as provided in CAFC Rule 11(b)(2).

Very truly yours,

George E. Hutchinson

cc: Mr. Cohen
Ms. Walber

A-Exh. #4